



**Request for City Council Committee Action
From the Departments of Public Works and Procurement**

Date: August 21st, 2012
To: Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee
Referral to: Honorable Betsy Hodges, Chair Ways and Means Committee
Subject: **Approval of Official Publication No. 7635 Bids for Fridley Filtration Plant Ammonia System Replacement Project**

Recommendation:

Acceptance of the second low bid of Municipal Builders, Inc. in the amount of \$4,667,103.00 to furnish and deliver all labor, materials, equipment and incidentals necessary to construct a new ammonia storage and feed system at the Fridley, MN drinking water treatment campus, as follows:

The good faith efforts for SUBP participation of the low bidder, Sheehy Construction Company were rejected, per the attached letter and the bid of Municipal Builders, Inc. has been approved by the Civil Rights Department.

The Entire System Total Amount of: \$4,667,103.00

Terms are net-30 days

F.O.B.: Destination

Further recommend proper Officers be authorized and directed to execute a contract for this project, all in accordance with our specifications.

This has been approved by the Civil Rights Department

Prepared by: Gary Warnberg Director, Purchasing

Approved by: Steven A. Kotke, P.E. Director, Public Works

Financial Impact (Check those that apply)

☐ No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)

☐ Action requires an appropriation increase to the Capital Budget

☐ Action requires an appropriation increase to the Operating Budget

☐ Action provides increased revenue for appropriation increase

☐ Action requires use of contingency or reserves

☒ Other financial impact (Explain): Action is within Budget

☐ Request provided to the Budget Office when provided to the Committee Coordinator

Background/Supporting Information:

Tabulation of three (3) bids received on Official Publication No. 7635 Bids for Fridley Filtration Plant Ammonia System Replacement Project.

Attachments - Civil Rights Department Letter
Tabulation Sheet

cc: A. Bankston
S. Rezanian
J. Burns



Department of Civil Rights

Velma J. Korbelt

Director

350 South 5th Street - Room 239

Minneapolis MN 55415-1369

Office 612 673-3012

Fax 612 673-2599

TTY 612 673-2157

July 24, 2012

Sent via email

Blair Juliar

Sheehy Construction Company

360 West Larpenteur Avenue Suite 200

St. Paul, MN 55113

RE: Good Faith Efforts Review – OP 7635 – Bids for Fridley Filtration Plant
Ammonia System Replacement Project

Dear Mr. Juliar:

The Minneapolis Department of Civil Rights (MDCR) has concluded its pre-award Small Underutilized Business Participation (SUBP) review related to Fridley Filtration Plant Ammonia System Replacement Project, OP 7635. We regret to inform you that MDCR will not be recommending Sheehy Construction Company (Sheehy) for approval on this project.

According to Chapter 423 of the Minneapolis Code of Ordinances, bidders must "make every necessary and reasonable effort to subcontract work to MBEs/WBEs in advance of the dates specified for submitting and opening of bids or requests for proposals." A bidder not fully meeting the SUBP goals shall demonstrate its good faith efforts (GFE) to do so and MDCR "shall determine if a business has made adequate good faith efforts. If a bidder or proposer fails to meet the project goals and does not demonstrate good faith efforts, the bid or proposal will be rejected and the bidder or proposer shall not be awarded the contract." Because the Contract SUBP form submitted with Sheehy's bid indicated that Sheehy would be unable to meet the SUBP goal, MDCR conducted a GFE review. After careful examination of all documentation submitted by Sheehy, MDCR has determined that Sheehy did not engage in good faith efforts to contract with certified Minority-owned Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in advance of the bid letting as required by ordinance.

Sheehy was made aware of the goals and GFE requirements on this project from the project specifications. The goals and the GFE requirements [(423.90(g)(1-7) - "Good faith efforts")] were also printed on the handout that was distributed at the pre-bid meeting, which Andy Dembroski of Sheehy attended. In that meeting MDCR staff explained the requirements and urged contractors to read the language on the handout.

The GFE documents and follow up communication demonstrate that Sheehy did not directly solicit MN/UCP certified firms in order to meet the goals set on the project. In a letter dated July 19, 2012 Sheehy stated "We solicited W/MBE's through 3rd party invites." Sheehy was unable to provide a list of companies to which a fax invitation to bid was sent. Sheehy was also unable to provide a copy of emails sent to M/WBE firms soliciting their business. In a letter to MDCR on July 20, 2012 Sheehy indicated that eight MBE, WBE firms were called to solicit their bids on the project, although one of the firms listed is not an MBE or WBE and the list provided does not match the list sent initially on July 19. In a phone call on



www.ci.minneapolis.mn.us

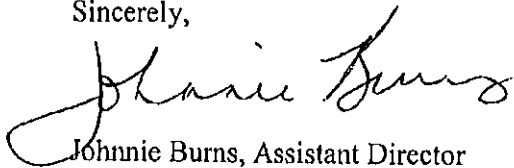
Affirmative Action Employer

Thursday, July 19 Mr. Juliar stated that Sheehy would not be able to meet the goal without the use of the prime mechanical and electrical subcontractors' second tier subs, and that he had no knowledge of when the prime mechanical and electrical subcontractors contacted or solicited MBE or WBE firms. Sheehy did not independently solicit any MBE or WBE firms for the prime mechanical or electrical work which Sheehy indicated to be 60% of the project scope but instead asked their prime mechanical and electrical subcontractors to "search for ways to breakdown their sections of work." Mr. Juliar freely admits that "No MBE/WBE prime mechanical or electrical subs were solicited directly by Sheehy Construction. Sheehy was unable to provide a copy of the email or letter sent to the prime mechanical and electrical firms directing them to solicit and seek MBE/WBE participation. Sheehy also did not contact potential MBE or WBE firms by more than one method and stated "it serves no purpose to contact them again, two or three times, via other methods." Five of the ten MBE/WBE firms listed as being used in the letter dated July 19, 2012 do not appear anywhere on the bidders list provided, and appear on the Certificate of Good Faith Efforts indicating no contact prior to the bid letting. The lone woman owned business listed on the Contract SUBP participation form is a non-MN/UCP Certified firm. This gives further indication that the UCP directory was not utilized prior to the bid letting. Mr. Juliar did not indicate the use of any business associations and no advertisements for women or minority owned businesses for subcontracting opportunities were utilized.

For the reasons explained above, MDCR will not recommend approval of Sheehy Construction Company for the Fridley Filtration Plant Ammonia System Replacement Project, OP 7635.

If you have any questions please contact me at 612-673-3076 or at johnnie.burns@minneapolismn.gov.

Sincerely,



Johnnie Burns, Assistant Director
Minneapolis Department of Civil Rights – Contract Compliance Unit

Cc: Velma Korbel
David Ybarra
Maria Conley
Annika Bankston

"BIDS FOR FRIDLEY FILTER PLANT AMMONIA SYSTEMS REPLACEMENT PROJECT" - P/W - Water

Official Publication 7635
Bids opened 10 A.M., Local
Time, July 10th, 2012
Minneapolis, MN

Total Bid

\$

1. Sheehy
Construction
Company Inc.

4,660,300.00

2. Rice Lake
Construction
Group

4,928,600.00

3. Municipal
Builders, Inc.

4,667,103.00

We, the undersigned, hereby certify that the above bids were publicly opened and read aloud:

Heidi Smith

FOR THE: FINANCE OFFICER

David S. Johnson

ASST. DIRECTOR, PURCHASING